

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
APR 17 2006
ADMINISTRATIVE HEARING
COMMISSION

W. DALE FINKE, Director
Department of Insurance
State of Missouri,

Petitioner,

v.

MICHAEL SPILLMAN,
Serve at:
P.O. Box 216
Lake Ozark, MO 65049

Respondent.

Case No. 05-09233390

COMPLAINT

W. Dale Finke, Director, Missouri Department of Insurance, by counsel, for his Complaint against Respondent, states as follows:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director of the Missouri Department of Insurance (hereinafter "Department" or "Director") whose duties, pursuant to Chapter 375, RSMo, include the supervision and regulation of insurance producers.

2. Respondent, Michael Spillman (hereinafter "Respondent"), has been issued an insurance producer license by the Director, number PR283629, which license is currently in good standing. Respondent's license was active at all times mentioned in this Complaint.

3. This Commission has jurisdiction of this Complaint pursuant to section 621.045, RSMo.

Count I

4. Respondent has improperly withheld, misappropriated or converted moneys or properties received in the course of doing insurance business, a ground for discipline under section 375.141.1(4), RSMo Cum. Supp. 2002.

5. The facts are as follows:

a. On or about August 15, 2003, Respondent received funds in the amount of \$7,500 from Elver Johnson Excavating, Inc. Such funds were for a workers' compensation insurance premium payment to Respondent.

b. On or about October 16, 2003, Respondent received funds in the amount of \$2,560 from Elver Johnson Excavating, Inc. Such funds were for a workers' compensation insurance premium payment to Respondent.

c. On or about October 16, 2003, Respondent received funds in the amount of \$1,054 from Elver Johnson Excavating, Inc. Such funds were for a workers' compensation insurance premium payment to Respondent.

d. On or about October 31, 2003, Respondent received funds in the amount of \$4,721 from Elver Johnson Excavating, Inc. Such funds were for a workers' compensation insurance premium payment to Respondent.

6. All of the above-mentioned funds belonged to Elver Johnson Excavating, Inc. or Zurich Insurance Group.

7. Respondent appropriated such funds for his own use or diverted such funds for a use other than that intended.

8. After receiving the above-mentioned funds, Respondent issued a phony insurance identification card and a phony certificate of insurance coverage to Elver Johnson Excavating, Inc.

9. Elver Johnson Excavating, Inc. was without workers' compensation insurance coverage for its employees at all times mentioned above.

Count II

10. Respondent has violated a regulation of the Director, a ground for discipline under section 375.141.1(2), RSMo Cum. Supp. 2002.

11. In December 2004 or January 2005, Respondent solicited a \$10,000 personal loan from Catherine Wickham, a long time insurance client of his, in violation of 20 CSR 700-1.140(4).

Count III

12. Respondent has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, a ground for discipline under section 375.141.1(8), RSMo Cum. Supp. 2002.

13. Petitioner realleges and incorporates herein by reference all of the allegations contained in paragraphs 4 through 12 of this Complaint.

WHEREFORE, Petitioner requests that this Commission find cause to discipline the insurance producer license of Respondent.

Respectfully submitted,

Stephen R. Gleason

STEPHEN R. GLEASON

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ATTORNEY FOR PETITIONER:

W. Dale Finke, Director

Department of Insurance

State of Missouri